



MEMORANDUM

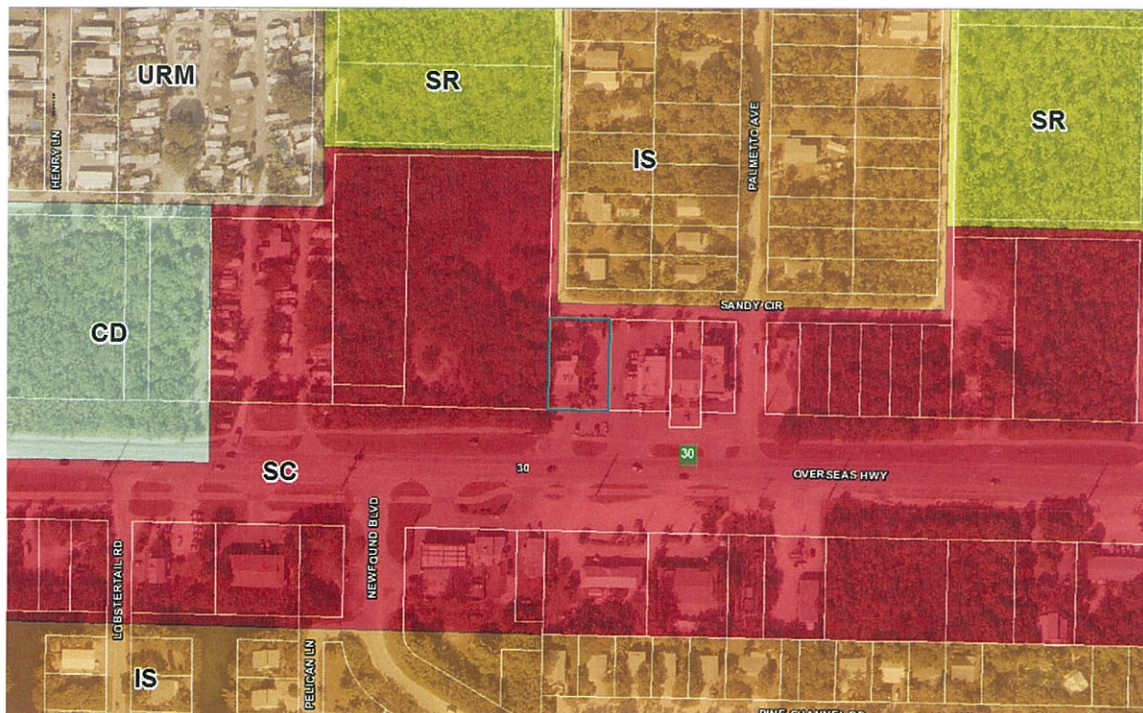
MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Planning Commission
Through: Mayté Santamaria, Senior Director of Planning & Environmental Resources
From: Kevin Bond, AICP, Planning and Development Review Manager
Date: January 6, 2017
Subject: *Bucktooth Rooster Farms, 29943 Overseas Highway, Big Pine Key, mile marker 29.9: A public hearing concerning a request for a 2COP Alcoholic Beverage Special Use Permit, which would allow beer and wine for sale by the drink (consumption on premises) or in sealed containers for package sales. The subject property is legally described as Lots 1 and 2, Block 1, Big Pine Key Inc (Plat Book 5, Page 4), Big Pine Key, Monroe County, Florida, having real estate number 00256540-000000 (File # 2016-209)*

Meeting: January 25, 2017

I REQUEST:

The applicant, Robert V. DeGennaro—agent for Bucktooth Rooster Farms, Inc., doing business as Bucktooth Rooster—requests approval of a 2COP Alcoholic Beverage Use Permit, which would allow beer and wine for sale by the drink (consumption on premises) or in sealed containers for package sales, for use at the Bucktooth Rooster restaurant located on property at 29943 Overseas Highway on Big Pine Key.



Subject Property with Land Use Districts Overlaid (Aerial dated 2015)

II BACKGROUND INFORMATION:

Location / Address: 29943 Overseas Highway, Big Pine Key, mile marker 29.9 bayside

Legal Description: Lots 1 and 2, Block 1, Big Pine Key, Inc, according to the Plat thereof, as recorded in Plat Book 5, Page 4, of the Public Records of Monroe County, Florida

Real Estate Number: 00256540-000000

Applicant/Agent: Robert V. DeGennaro

Property Owner: Plaza 29 LLC

Size of Site: 15,013 square feet (0.34 acres) per Monroe County Property Appraiser

Land Use District: Suburban Commercial (SC)

Future Land Use Map (FLUM) Designation: Mixed Use/Commercial (MC)

Tier Designation: III (infill area)

Existing Use: Restaurant (commercial retail)

Existing Vegetation / Habitat: Developed/scarified with some vegetation

Community Character of Immediate Vicinity: Uses within 500 feet include undeveloped / vacant land, single-family residential dwellings, mobile homes, commercial retail, mixed use (residential / commercial) properties, offices, medical services, a bank, a post office, a repair shop, a gas station, a plant nursery and government-owned conservation land.

Flood Zone: AE 8

III RELEVANT PRIOR COUNTY ACTIONS:

On April 1, 1963, Building Permit # 5176 was issued for a CBS store.

On June 3, 1969, Building Permit # 18585 was issued for a porch for a restaurant.

On November 27, 1974, Building Permit # 34184 was issued for a sign for the Sharecropper restaurant. The location was also described as Big Pine Coffee Shop.

On November 12, 2005, the Planning Director approved an administrative variance for a front yard setback reduction from 25 to 15 feet for an awning (File # 25059).

The subject property previously had a 2COP state alcoholic beverage license, but is null and void as of 3/31/2015. A prior Alcoholic Beverage Use Permit issued by the County could not be found.

IV REVIEW OF APPLICATION:

Pursuant to Section 3-6(e) of the Monroe County, Florida, Code of Ordinances (the "Code"), the Planning Commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:

(1) The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises. For the purposes of this section, the term "premises" means the entire project site of a shopping center:

The existing use is commercial retail for a restaurant now called Bucktooth Rooster. The prior restaurant was called Big Pine Restaurant. Based records found, the property has been used as a restaurant since at least 1969. Surrounding properties within 500 feet of the premises include undeveloped / vacant land, single-family residential dwellings, mobile homes, commercial retail, mixed use (residential / commercial) properties, offices, medical services, a bank, a post office, a repair shop, a gas station, a plant nursery and government-owned conservation land.

Those following businesses within 500 feet of the subject premises have active, current alcoholic beverage licenses:

Surrounding Property	Business Type	License Type
Shell, 29900 Overseas Hwy	Gas station / convenience store	2APS

Staff does not anticipate that approval of the requested 2COP Alcoholic Beverage Use Permit would have an adverse effect on surrounding properties or the immediate neighborhood, especially since the restaurant use has been established since at least the late 1960s and previously had a 2COP state license.

Please note that no members of the community, either in support or opposition to the application, contacted the Planning and Environmental Resources Department as of the date of this report.

IN COMPLIANCE

- (2) *The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties shall be soundproofed. In the event music and entertainment are permitted, the premises shall be air conditioned:*

Given the property's location within the Suburban Commercial (SC) Land Use District, which permits commercial retail uses, and that the building has been used as a restaurant since at least the late 1960s, the subject premises would be suitable.

Lighting on the premises is subject to the County Land Development Code. If necessitated by a future substantial improvement or a change of use, any nonconforming lighting would have to be brought into compliance to the maximum extent practical pursuant to Code Section 102-59. Any new outdoor lighting installed in the future would be subject to Code Chapter 114, Article VI.

No music or entertainment is proposed by the applicant.

IN COMPLIANCE

1 (3) *Access, traffic generation, road capacities, and parking requirements:*

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3 No changes to access or parking are proposed by the applicant as part of the subject
4 application, and none would be required by County Code at this time. The proposed use
5 is not anticipated to have an impact on traffic generation or road capacities due to the use
6 being the same use as currently approved and allowed on the property. If necessitated by
7 a future substantial improvement or a change of use, any nonconforming parking and
8 access would have to be brought into compliance to the maximum extent practical
9 pursuant to Code Section 102-59.

10
11 The building consists of 2,438 square feet of total living area, according to the Monroe
12 County Property Appraiser. Based on this floor area, seven (7) off-street parking spaces
13 would be required for the restaurant use. The number of restaurant seats is not known.
14 The application included a site plan that indicates the location of existing parking spaces.
15 The site plan indicates a total of 36 parking spaces, including five spaces located in the
16 U.S. 1 right-of-way and five spaces located in the Sandy Circle right-of-way. Subtracting
17 the spaces in the right-of-way, the site plan indicates 26 off-street parking spaces. The
18 existing parking layout is nonconforming to the current LDC. Please note that, if
19 approved, the alcohol beverage use permit would not verify the lawfulness of the existing
20 parking configuration or the spaces located within rights-of-way.

21
22 IN COMPLIANCE

23
24 (4) *Demands upon utilities, community facilities and public services:*

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26 It is not anticipated that the approval of the requested 2COP alcohol beverage use permit
27 would increase demands upon any utilities, community facilities or public services.

28
29 (5) *Compliance with the county's restrictions or requirements and any valid regulations:*

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31 As of the date of this report, there are not any open code compliance cases related to the
32 property.

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34 **V RECOMMENDATION:**

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36 Staff recommends APPROVAL to the Planning Commission of the requested 2COP
37 Alcoholic Beverage Use Permit, which would allow beer and wine for sale by the drink
38 (consumption on premises) or in sealed containers for package sales, with the following
39 conditions (however, valid objections from surrounding property owners at the public
40 hearing may lead the Planning and Environmental Resources Department to reevaluate the
41 recommendation or suggested conditions):

- 42
43 1. Alcoholic Beverage Use Permits issued by virtue of Section 3-6 of the Monroe County
44 Code shall be deemed to be a privilege running with the land. The sale of the real
45 property that has been granted an Alcoholic Beverage Use Permit shall automatically vest
46 the purchaser thereof with all rights and obligations originally granted or imposed to or

1 on the applicant. Such privilege may not be separated from the fee simple interest in the
2 realty.

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4 2. Alcohol service sales and consumption shall occur only within areas allowed for such use
5 and approved by the Monroe County Planning & Environmental Resources Department.

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7 3. In the event that the holder's license by the Florida Department of Business and
8 Professional Regulation (DBPR) expires and lapses, this Alcoholic Beverage Use Permit
9 approval shall be null and void as of the date of the DBPR license expiration. Additional
10 approval by the Planning Commission shall be required to renew the Alcoholic Beverage
11 Use Permit.

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13 **VI ATTACHMENTS:**

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15 Attachment 1: Monroe County Code Section 3-6, Regulation and control over sale

Monroe County Code – Chapter 3, Alcoholic Beverages**Sec. 3-6. - Regulation and control over sale [of alcoholic beverages].**

- (a) *Establishment of use permit procedure.* This section is designed and intended to provide for reasonable regulation and control over the sale of alcoholic beverages within the unincorporated areas of the county by establishing an alcoholic beverage use permit procedure and providing criteria to be used to ensure that all future proliferation of alcoholic beverage use enterprises within the unincorporated areas of the county be compatible with adjoining and surrounding land uses and the county's comprehensive plan, and that alcoholic beverage use permits not be granted where such uses will have an adverse impact upon the health, safety and welfare of the citizens and residents of the county. All persons, firms, partnerships or corporations who have received approval from the zoning board or board of county commissioners under the former provisions of section 19-218 of the Monroe County Code, as same heretofore existed, shall retain all rights and privileges heretofore granted under such section.
- (b) *New applicants for permit.* All persons desiring to sell alcoholic beverages upon any premises located within the unincorporated areas of the county and who desire to do so upon a premises not heretofore approved by the zoning board or board of county commissioners under the former section 19-218, shall obtain an alcoholic beverage use permit using the procedure outlined in subsection (d) of this section.
- (c) *Classifications.* Corresponding to those alcoholic beverage license classifications as heretofore and hereafter adopted by the state, alcoholic beverage use permits hereafter issued pursuant to this chapter shall be classified as follows:
 - (1) 1APS: Beer, package only;
 - (2) 1COP: Beer, on-premises and package;
 - (3) 2APS: Beer and wine, package only;
 - (4) 2COP: Beer and wine, on-premises and package;
 - (5) 6COP: Beer, wine and liquor, on-premises and package;
 - (6) 6COP SRX: Restaurant, no package sales;
 - (7) 6COP SR: Restaurant, package sale;
 - (8) 6COP S: Motel, package sales;
 - (9) 6COP SBX: Bowling, no package sales;
 - (10) 6COP SPX: Boat, no package sales;
 - (11) 3BPS: Beer, wine and liquor, package sales only;
 - (12) 3M: Additional license for 6COP, over three bars; and
 - (13) 12RT: Racetrack, liquor, no package sales.
- (d) *Procedure.* The following procedure shall be followed on any application for an alcoholic beverage use permit hereafter made:
 - (1) Applications for alcoholic beverage use permits shall be submitted to the director of planning in writing on forms provided by the director. Such applications must be signed by the owner of the real property for which the permit is requested. Lessees of the premises may apply for such permits, provided that proper authorization from the owner of the premises is given and the application for permit is cosigned by such owner.
 - (2) Upon receipt of a properly completed and executed application for an alcoholic beverage use permit stating the exact classification requested along with the necessary fee, the director of planning shall schedule a public hearing before the planning commission and shall advise the applicant of the date and place of the public hearing.
 - (3) Notice of the application and of the public hearing thereon shall be mailed by the director of planning to all owners of real property within a radius of 500 feet of the affected premises. In the case of a shopping center, the 500 feet shall be measured from the perimeter of the entire shopping center itself rather than from the individual unit for which approval is sought. Notice shall also be provided in a newspaper of general circulation in the manner prescribed in section 110-5. For the purposes of this section, the term "shopping center" means a contiguous group of individual units, in any combination, devoted to commercial retail low-intensity uses,

Attachment 1

commercial retail medium-intensity uses, commercial retail high-intensity uses, and office uses, as those phrases are defined in section 101-1, with immediate off-street parking facilities, and originally planned and developed as a single project. The shopping center's single project status shall not be affected by the nature of the ownership of any of the individual office or commercial retail units, within the shopping center.

- (4) At the hearing before the planning commission, all persons wishing to speak for or against the application shall be heard. Recommendations or other input from the director of planning may also be heard prior to any decision by the planning commission.
- (e) *Criteria.* The planning commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:
 - (1) The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises. For the purposes of this section, the term "premises" means the entire project site of a shopping center;
 - (2) The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties shall be soundproofed. In the event music and entertainment are permitted, the premises shall be air conditioned;
 - (3) Access, traffic generation, road capacities, and parking requirements;
 - (4) Demands upon utilities, community facilities and public services; and
 - (5) Compliance with the county's restrictions or requirements and any valid regulations.
- (f) *Approval by planning commission.* The planning commission may grant approval based on reasonable conditions considering the criteria outlined herein.
- (g) *Where permitted.* Alcoholic beverage use permits may be granted in the following land use districts: urban commercial; suburban commercial; suburban residential where the site abuts U.S. 1; destination resort; mixed use; industrial and maritime industries. Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the land use district in which they are located. Nothing contained herein shall exempt an applicant from obtaining a major or minor conditional use approval when such is otherwise required by the county development regulations in part II of this Code.
- (h) *Transferability.* Alcoholic beverage use permits issued by virtue of this section shall be deemed to be a privilege running with the land. The sale of the real property that has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the applicant. Such privilege may not be separated from the fee simple interest in the realty.
- (i) *Appeals.* All persons aggrieved by the actions of the planning commission in granting or denying requested alcoholic beverage permits may request an appeal hearing before a hearing officer under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days after the date of the written decision of the planning commission.
- (j) *Successive applications.* Whenever any application for alcoholic beverage approval is denied for failure to meet the substantive requirements of these regulations, an application for alcoholic beverage approval for all or a portion of the same property shall not be considered for a period of two years unless a super-majority of the planning commission decides that the original decision was based on a material mistake of fact or that there exists changed conditions and new facts, not existing at the time of the original decision, that would justify entertaining a new application before the expiration of the two-year period. However, in the case of a shopping center, as defined in subsection (d)(3) of this section, this subsection shall only apply to the commercial retail unit within the shopping center for which approval was sought and not the entire shopping center site itself.

(Code 1979, § 19-218; Ord. No. 1-1973, § 1(art. XI, § 5); Ord. No. 5-1974, § 27; Ord. No. 20-1975, § 67; Ord. No. 29-1978, § 1; Ord. No. 5-1979, § 1; Ord. No. 17-1980, § 12; Ord. No. 4-1985, §§ 1, 2; Ord. No. 39-1986, § 2; Ord. No. 55-1987, §§ 1—3; Ord. No. 19-1993, § 14)